

IN RE: PETITION FOR SPECIAL HEARING  
N/S Mt. Carmel Road, 859' E  
of Evna Road  
(1512 Mt. Carmel Road)  
7th Election District  
3rd Councilmanic District  
Mary E. Ritzmann, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 88-477-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a retail establishment and to permit the operation of a video tape rental business in conjunction therewith, as more particularly described in Petitioner's Exhibit 2.

The Petitioners, by Mr. Ritzmann, appeared, testified and were represented by Jeffrey H. Gray, Esquire. Also appearing in support of the Petition was Judge John E. Ensor. There were no Protestants.

Testimony indicated that the subject property, zoned R.C. 2, consists of approximately 4.2 acres and is currently improved with two one and one-half story buildings and a detached garage. Since the early 1930s, the property has enjoyed a combined residential and commercial use. Petitioner's testimony indicated that a lawn and garden supply sales and service center has operated out of the one and one-half story block building, as shown on Petitioner's Exhibit 2, for many years. In addition, the front portion of the one-and one-half story frame structure depicted in Petitioner's Exhibit 2 has been used, historically, since the mid 1930s, as a general store and in later years, as a small grocery store. Testimony further indicated that the majority of the property is undeveloped.

In support of Petitioners' testimony and evidence presented, Judge Ensor testified that both a lawn and garden supply center and the general/grocery store have operated from the subject property since the early 1940s and that the two structures in question have only been used for commercial purposes. He testified that there has been no other commercial use of the property.

Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) describes a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. Section 104 of the B.C.Z.R. states as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

The Maryland Court of Special Appeals in McKony v. Baltimore County, Maryland, 39 Md., App 257, 385 A2d 96 (1978) has established that the following factors should be reviewed in determining the scope of an activity in a nonconforming use case:

- To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;
- Is the current use more a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

-2-

- Does the current use have a substantially different effect upon the neighborhood;
- Is the current use a "drastic enlargement or extension" of the original non-conforming use."

After due consideration of the testimony and evidence presented, it is clear that a nonconforming use of the subject property as a lawn and garden supply sales and service center and a general/grocery store exists. The facts and evidence in the record tend to establish the nonconforming use of the subject property since prior to January 1, 1945.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of July, 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a retail establishment, specifically, a lawn and garden supply sales and service center and a general/grocery store, and additionally, to permit the operation of a video tape rental business in conjunction therewith, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED from and after the date of this Order, subject, however, to the following restrictions:

- The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The nonconforming use granted herein is limited to the two one and one-half story buildings shown on Petitioner's Exhibit 2 and identified as the lawn and garden supply sales and service center, and video

-3-

rental, which is the proposed use in conjunction with the existing general/grocery store operation.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

PETITION FOR SPECIAL HEARING  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve this:

(Continuation of a) nonconforming use, to wit, retail establishments which has been in continuous operation for a period commencing prior to the zoning through the date of this Petition, and to permit issuance of a license for video tape rental in conjunction therewith.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):  
Mary Ellen Ritzmann  
(Type or Print Name)  
Signature  
Charles F. Ritzmann  
(Type or Print Name)  
Signature  
N-104, 165  
W-23, 650

550 S. Main Street  
Address  
Shrewsbury, Pennsylvania 17361  
City and State  
Name, address and phone number of legal owner, contact purchaser or representative to be contacted  
Charles F. Ritzmann  
Name  
550 S. Main Street  
Address  
Shrewsbury, Pennsylvania 17361  
City and State

Attorney's Telephone No.: 301-329-2104

ORDERED BY The Zoning Commissioner of Baltimore County, this 20th day of MARCH, 1988, that the subject matter be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 8th day of JUNE, 1988, at 2 o'clock A.M.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

ESTIMATED LENGTH OF HEARING  
AVAILABLE FOR HEARING  
MON./TUES./WED. - NEXT TWO WEEKS  
ALL  
REVIEWED BY: DATE: 3/28/88

88-477-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this 30th day of March, 1988.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER

Petitioner: Charles F. Ritzmann  
Petitioner's Attorney: Jeffrey H. Gray  
Received by: James E. Dyer  
Chairman, Zoning Plans Advisory Committee

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

88-477-SPH

District: 7th Date of Posting: May 20, 1988  
Posted for: Special Hearing  
Petitioner: Mary E. Ritzmann, et ux  
Location of property: N/S Mt. Carmel Road, 859' E of Evna Road  
(1512 Mt. Carmel Road)  
Location of Sign: In front of 1512 Mt. Carmel Road  
Remarks:  
Posted by: S.J. Arata  
Number of Signs: 1  
Date of return: May 27, 1988

JEFFREY H. GRAY  
1700 YORK ROAD  
TOWSON, MD 21204  
(410) 329-2104

BEGINNING for the outlines to include the same at a stone the end of the south fifty-five degrees west ninety-eight and one-half perches line of Lot No. 3, in a deed of conveyance from Alfred Sparks to Peter F. Wisner bearing date February 7, 1903, and recorded among the Land Records of Baltimore County in Liber N.B.M. No. 266, folio 228 ac, and running thence bounding on said lot and on Lot No. 1 of said deed south twenty-five and one-half degrees east forty and four tenths perches to a stone on the south edge of the Hereford Road and until it intersects the outlines of Evna School lot thence bounding on said road south eighty-eight degrees east fifteen and nine twenty fifth perches thence by lines of division as fixed and agreed upon north twenty-five and one-half degrees west one and two tenth perches to a stone on the northwest edge of said Road still north twenty-five and one-half degrees west forty-eight perches to a stone and until it intersects the aforesaid south fifty-five degrees west ninety-eight and one-half perches line thence bounding thereon south fifty-nine and one-half degrees west fourteen and three fourths perches to the first place of beginning. Containing four acres and thirty-two square perches of land, more or less. The improvements thereon being now known as No. 1512 Mt. Carmel Road.

BEING the same lot of ground which by Deed dated February 14, 1968 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4850, folio 179, was granted and conveyed by Eleanor Pearl Mays, widow, unto George K. Kron and Shirley S. Kron, his wife, the grantors herein. Current Deed reference Liber 6664, folio 409.

Eight Hundred Fifty-nine feet to the intersection to Evna Road.

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

July 22, 1988

Jeffrey H. Gray, Esquire  
17000 York Road, P.O. Box 51  
Monkton, Maryland 21111-0051

RE: PETITION FOR SPECIAL HEARING  
N/S Mt. Carmel Road, 859' E of Evna Road  
(1512 Mt. Carmel Road)  
7th Election District; 3rd Councilmanic District  
Case No. 88-477-SPH

Dear Mr. Gray:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs  
Enclosure  
cc: People's Counsel

File

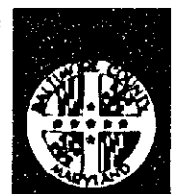






Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
494-3554

May 6, 1988



Dennis F. Rasmussen  
County Executive

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number  
336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, and 347.

Very truly yours,

*Stephen E. Weber*  
Stephen E. Weber, P.E.  
Assistant Traffic Engineer

SEW/PF/pml-b

RECEIVED  
MAY 11 1988  
ZONING OFFICE

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner  
Date: May 16, 1988  
FROM: P. David Fields, Director  
Office of Planning and Zoning  
SUBJECT: Zoning Petitions #88-477-Sph, 88-478-Sph, 88-489-Sph,  
88-494-A, 88-497-Sph

In view of the subject of these petitions, this office  
offers no comment.

*P. David Fields*  
P. David Fields, Director  
Office of Planning and Zoning

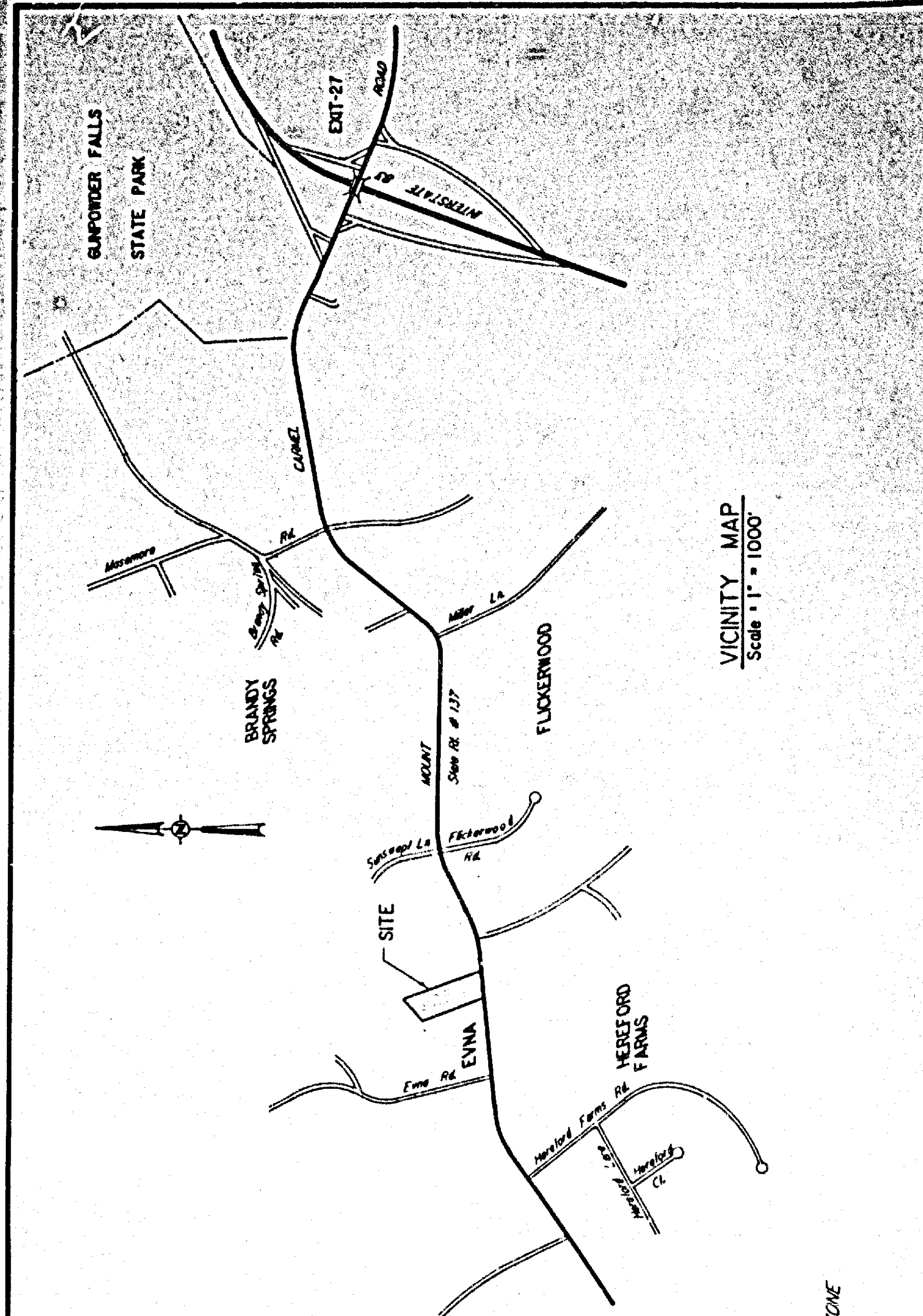
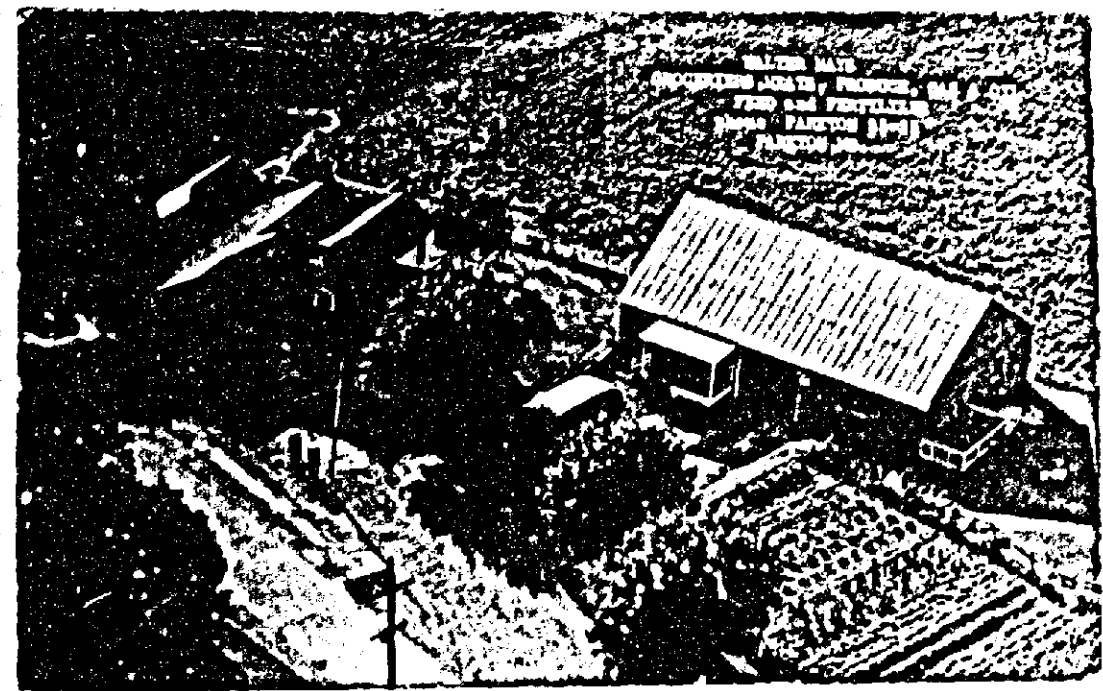
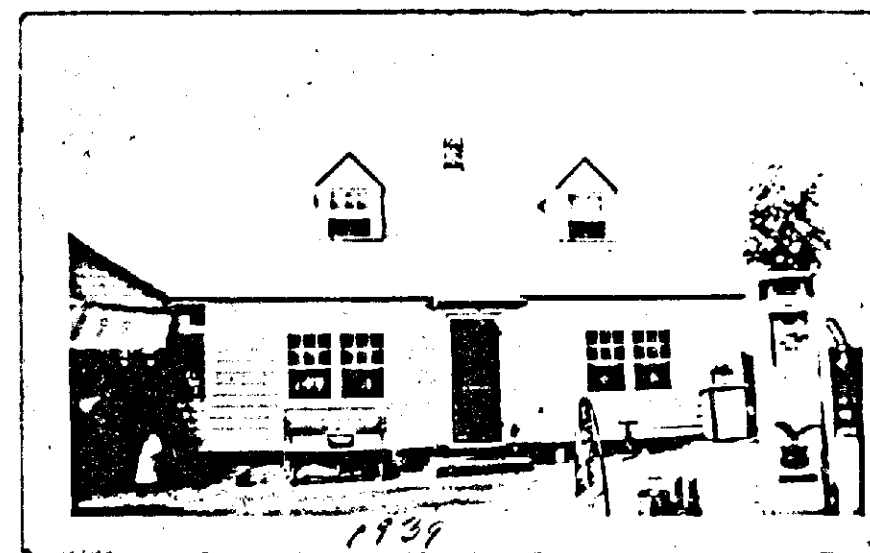
PDF/jat

cc: Shirley Hess, People's Counsel  
J. G. Hoswell  
Zoning Office

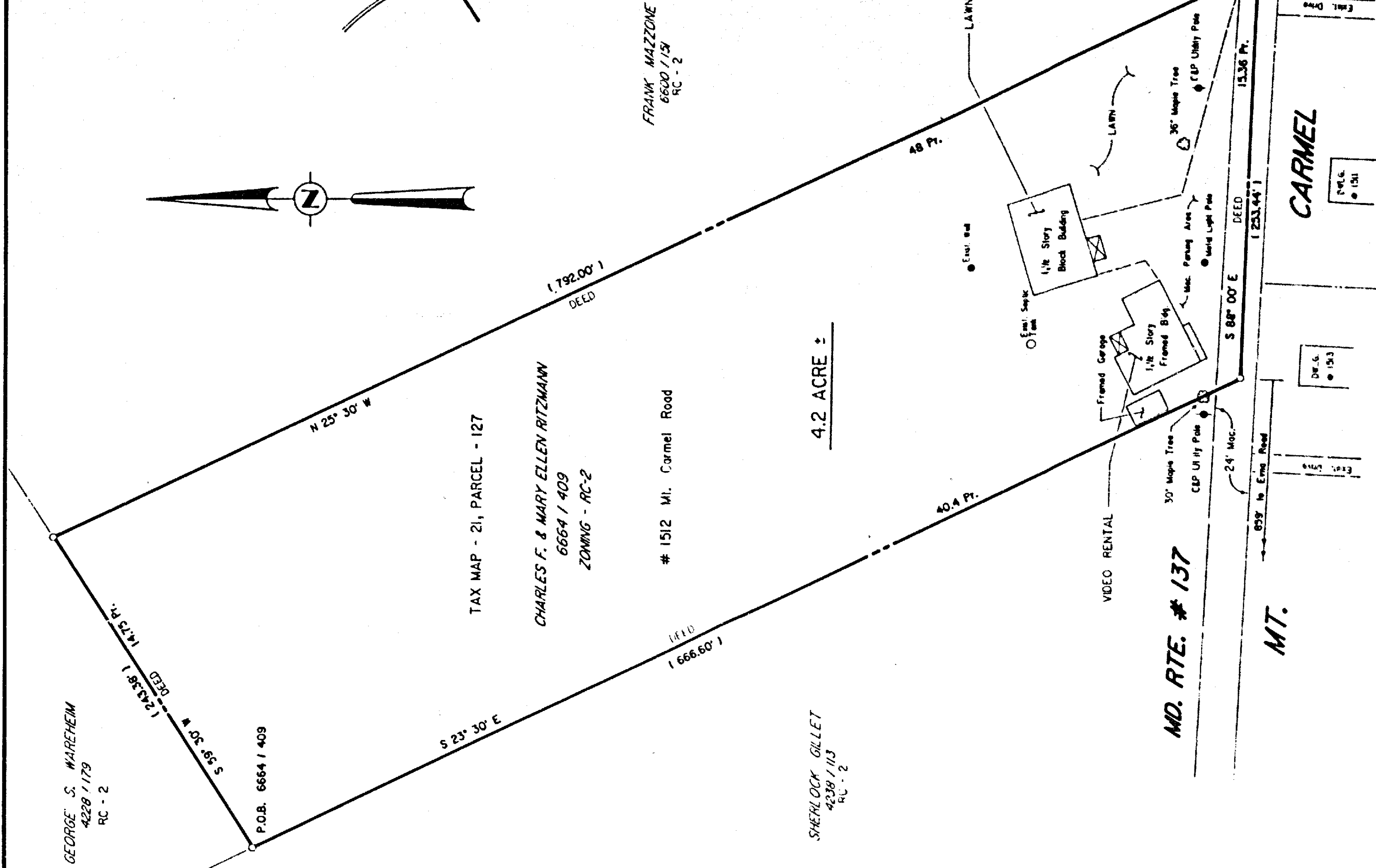
RECEIVED  
MAY 17 1988  
ZONING OFFICE

cc: Jeffrey H. Gray, Esq.  
5/18/88

CPS-008



VICINITY MAP  
Scale 1" = 1000'



#337

## PETITIONER'S EXHIBIT 2

PLAT TO ACCOMPANY PETITION FOR SPECIAL  
HEARING FOR NONCONFORMING USE

CHARLES F. & MARY ELLEN RITZMANN

7th DISTRICT, BALTIMORE COUNTY, MD.

AUGUST 10, 1987 SCALE 1" = 50'

JOSEPH W. SHAW R.S.  
STEWARTSTOWN, PA.